

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 7
	)	
Plassein International Corporation, <i>et al.</i> ,	)	Case No. 03-11489 (KG)
(n/k/a PL Liquidation Corp.),	)	
	)	Jointly Administered
Debtors. <sup>1</sup>	)	
_____	)	
	)	
WILLIAM BRANDT, as he is the	)	
Trustee of the Estates of Plassein	)	
International Corp., <i>et al.</i> ,	)	
	)	
Plaintiff,	)	
v.	)	Adv. Proc. No. 05-50692 (KG)
	)	
B.A. Capital Company LP,	)	
The Andrew Marshall Forsberg Trust,	)	
Ethel Forsberg Revocable Trust,	)	
Janis Rae Forsberg Trust,	)	
Frank John McCarthy, Daniel R. Orris,	)	
Bernadine Orris, Charles J. Warr,	)	
Paul D. Gage, Stephen S. Wilson,	)	
G. Kenneth Pope, Jr., Kenneth Olenler,	)	
Daniel A. Jones, III, Sam Chebeir,	)	
Thomas F. Fay, Ruth L. Fischbach,	)	
Mark R. Freedman, Robert N. Zeitlin,	)	
Sidney Zeitlin, ZFC Associates, Inc.,	)	
William G. Russell, Robert N. Zeitlin 1999	)	
Charitable Remainder Unitrust,	)	
	)	
Defendants.	)	
_____	)	

**DESIGNATION OF RECORD ON APPEAL**

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<sup>1</sup> The Debtors are Plassein International Corporation, Plassein International of Thomasville, Inc., f/k/a Rex International, Inc.; Plassein International of Ontario, LLC, f/k/a Transamerican Plastic, LLC; Plassein International of Spartanburg, Inc., f/k/a Plastical Industries Inc.; Plassein International of Martin, Inc., f/k/a Marshall Plastic Film, Inc.; Plassein International of Salem, Inc., f/k/a Key Packaging Industries Corp.; and Teno Films, Incorporated.

William Brandt, as Trustee of the Estates of Plassein International Corp., *et al.*, by and through undersigned counsel, and pursuant to Bankr. R. 8006, hereby designates the items to be included in the record on appeal for the appeal filed under 28 *U.S.C.* § 158(a) of the order of the Honorable Kevin Gross entered in the above-captioned adversary proceeding on April 20, 2007 [D.I. No. 71; related D.I. No. 70].

Record on Appeal

1. Complaint [D.I. No. 1];
2. Memorandum of Law in Support of the Application of the Marshall Plastic Film Defendants, Pursuant to Federal Rule of Bankruptcy Procedure 7012(b) for Entry of an Order Dismissing the Adversary Complaint as it Relates to the Marshall Plastic Film Defendants [D.I. No. 22];
3. Application of the Marshall Plastic Film Defendants, Pursuant to Federal Rule of Bankruptcy Procedure 7012(b) for Entry of an Order Dismissing the Adversary Complaint as it Relates to the Marshall Plastics Defendants [D.I. No. 23];
4. B.A. Capital Company LP's Motion to Dismiss Complaint [D.I. No. 25];
5. Defendants Charles J. Warr, Paul D. Gage, Stephen S. Wilson, G. Kenneth Pope, Jr., Kenneth Olender and Daniel A. Jones III's Motion to Dismiss [D.I. No. 26];
6. Opening Brief in Support of Defendants Charles J. Warr, Paul D. Gage, Stephen S. Wilson, G. Kenneth Pope, Jr., Kenneth Olender and Daniel A. Jones III's Motion to Dismiss [D.I. No. 27];
7. Sam Chebeir's Motion to Dismiss [D.I. No. 28];
8. Opening Brief in Support of Sam Chebeir's Motion to Dismiss [D.I. No. 29];
9. Key Packaging Defendants' Motion to Dismiss the Complaint [D.I. No. 30];
10. Key Packaging Defendants' Opening Brief in Support of Their Motion to Dismiss the Complaint [D.I. No. 31];

11. Declaration of Laurie Selber Silverstein in Support of Key Packaging Defendants' Motion to Dismiss the Complaint [D.I. No. 32];
12. Plaintiff's Consolidated Brief in Opposition to Defendants' Various Motions to Dismiss the Complaint [D.I. No. 37];
13. Affidavit of Charles R. Bennett, Jr. in Support of the Trustee's Opposition to the Defendants' Motions to Dismiss [D.I. No. 38];
14. Reply Memorandum In Further Support of B.A. Capital Motion to Dismiss Complaint [D.I. No. 43];
15. Response to the Trustee's Objection to the Application of The Marshall Plastic Film Defendants, Pursuant to Federal Rules of Bankruptcy Procedure 7012(B) for Entry of an Order Dismissing the Adversary Complaint as it Relates to The Marshall Plastic Film Defendants [D.I. No. 44];
16. Reply Brief in Further Support of Defendants Sam Chebeir's Motion to Dismiss [D.I. No. 45];
17. Reply Brief in Further Support of Defendants Charles J. Warr, Paul D. Gage, Stephen S. Wilson, G. Kenneth Pope Jr., Kenneth Olender and Daniel A. Jones III's Motion to Dismiss [D.I. No. 46];
18. Key Packaging Defendants' Reply Brief In Support of Defendants' Motion to Dismiss the Complaint [D.I. No. 47];
19. Letter to the Honorable Walter Shapero regarding recent applicable court decisions filed by B.A. Capital Company, LP [D.I. No. 63];
20. Letter to the Honorable Walter Shapero from Karen E. Wagner, Esq. regarding the submission of a recent decision in connection with the pending motions to dismiss [D.I. No. 64];
21. Opinion granting Motions to Dismiss [D.I. No. 70];
22. Order granting Motions to Dismiss and Dismissing Adversary Proceeding [D.I. No. 71];
23. Notice of Appeal (BAP 07-62) [D.I. No. 72];
24. Voluntary Petition [D.I. No. 1 in main case 03-11489].

Dated: May 7, 2007  
Wilmington, Delaware

Respectfully submitted,

WILLIAM BRANDT, AS HE IS TRUSTEE  
OF THE CHAPTER 7 ESTATES OF PL  
LIQUIDATION CORP., f/k/a PLASSEIN  
INTERNATIONAL CORP., ET AL.

By his attorneys,

CROSS & SIMON, LLC

By: /s/ Amy Evans

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-and-

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## STATEMENT OF ISSUES PRESENTED ON APPEAL

<sup>1</sup> The Debtors are Plassein International Corporation, Plassein International of Thomasville, Inc., f/k/a Rex International, Inc.; Plassein International of Ontario, LLC, f/k/a Transamerican Plastic, LLC; Plassein International of Spartanburg, Inc., f/k/a Plactical Industries Inc.; Plassein International of Martin, Inc., f/k/a Marshall Plastic Film, Inc.; Plassein International of Salem, Inc., f/k/a Key Packaging Industries Corp.; and Teno Films, Incorporated.

William Brandt, as Trustee of the Estates of Plassein International Corp., *et al.*, by and through undersigned counsel, and pursuant to Bankr. R. 8006, hereby states the issues to be presented on appeal, for the appeal filed under 28 *U.S.C.* § 158(a) of the order of the Honorable Kevin Gross entered in the above-captioned adversary proceeding on April 20, 2007 [D.I. No. 71; related D.I. No. 70].

Statement of Issues Presented on Appeal

1. Did the Court err in finding that § 546(e) of the Bankruptcy Code applies to a transaction that does not involve the sale or transfer of a publicly traded security?
2. Did the Court err in failing to find that under the plain language of § 741(8) of the Bankruptcy Code, only settlement payments “commonly used in the securities trade,” that is, made with respect to publicly traded securities, fall within the exception provided by § 546(e) of the United States Bankruptcy Code?
3. Did the Court err in finding that the Complaint failed to state a claim for relief because the transfers were made by a non-debtor (Plassein Packaging Corp.) where the record clearly establishes that Plassein Packaging Corp. changed its name to Plassein International Corp., a debtor, upon the completion of the transaction at issue?
4. Did the Court err in holding that the Plaintiff was required to allege actual intent to defraud in order to collapse the transactions constituting a leveraged buyout and thereby state a claim under the Delaware Fraudulent Transfer Act, Sections 1304 and 1305?

Dated: May 7, 2007  
Wilmington, Delaware

Respectfully submitted,

WILLIAM BRANDT, AS HE IS TRUSTEE  
OF THE CHAPTER 7 ESTATES OF PL  
LIQUIDATION CORP., f/k/a PLASSEIN  
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By his attorneys,

CROSS & SIMON, LLC

By: /s/ Amy E. Evans  
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